

Ms. Huseman,

Your questions reflect factual and legal misunderstandings so we've passed it on to our legal team. Their thoughts follow:

First, regarding CyberScout, in 2017, CyberScout representatives presented their qualifications to our staff and then to our State Board of Elections ("SBE") members. At that time, made clear in Board minutes, the members voted to engage their services. Governor Bevin's Finance and Administration Cabinet then approved CyberScout as a sole source vendor, negating the need for a lengthy procurement process. The Board has, to date, supported CyberScout's work and approved a payment on the contract as recently as this September. CyberScout delivered their final report to the Commonwealth on December 20. All of this is reflected and *undisputed* in the State Board of Elections minutes from the meeting on February 21, 2017.

- The minutes reflect that in May, July, October and September of 2017, updates were given to the board regarding Cyberscout's work with no objections
- The redacted CyberScout report prepared for the Board is a synopsis. CyberScout's full report, which contains confidential protected information due to Kentucky's election critical infrastructure designation, is available for the Board members viewing.

Second, Federal and Kentucky law require the Secretary of State to have access to the Voter Registration System ("VRS"), and the notion that the Secretary and her staff should not have access to the VRS is incorrect.

- The Secretary of State is the Chief Election Official of the Commonwealth pursuant to KRS 117.015.
- The bipartisan members of SBE recently approved a unanimous resolution affirming the Secretary's role as Chief Election Official and right to access information to fulfill her duties as the Chief Election Official, including the VRS.
- Federal and Kentucky law requires the Secretary to maintain and certify the VRS, and her staff utilize the VRS before, on, and after each elections day and in the regular course of business to coordinate election inquiries and field complaints.
- Federal law is also clear that the Secretary must have access to Kentucky's VRS. The Help America Vote Act, Section 303(a)(1)(v) requires that "each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the

State and assigns a unique identifier to each legally registered voter in the State . . . .” The statute continues, “Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list.”

- Moreover, all citizens have a right to access the information in the VRS for any reason pursuant to KRS 116.095, which mandates that all voter registration records (other than social security numbers) must be available to the public.
- As longtime advocates for the right of the public to access government information, surely the Herald-Leader agrees with established Kentucky law under the Open Records Act that deems the purpose behind accessing government information irrelevant.

Third, the suggestion that the Secretary of State is too engaged in overseeing the State’s election system also reflects a misunderstanding of her federal and state legal obligations. Some of her legal obligations follow.

- Pursuant to KRS 117.015, the Commonwealth of Kentucky has designated that the Secretary of State serve as the Chief Election Official for the Commonwealth and Chair of the SBE.
- The Secretary is charged with ensuring Kentucky’s compliance with federal election law, including the HAVA, the National Voter Registration Act of 1993, the Voting Rights Act of 1965, the Uniformed and Overseas Citizens Absentee Voting Act of 1986, and the Military and Overseas Voters Empowerment Act of 2009.
- The Secretary receives statements of candidacy and nominating petitions, candidate withdrawals, certifies names of candidates for placement on the ballot, and receives certifications of official vote totals after each election pursuant to KRS Chapter 118.
- The Secretary, after each federal election cycle, certifies to the Election Administration Commission (“EAC”), Kentucky voter registration statistics, voter turnout, and compliance with federal law.

Thus, consistent with her obligations for Kentucky’s elections systems under federal and Kentucky law, the Secretary, as Chief Election Official and Chair of the SBE, has taken an active role in the operations of the SBE.

Additionally, the suggestion that the Secretary has injected partisanship into SBE is false; in fact, your questions are the first time such an allegation has been raised. To the contrary, during the Secretary’s administration, more Republicans have been hired as staff at the SBE than Democrats. It is Mr. Dearing and the Personnel Board who continue to claim that the Secretary somehow engaged in improper use of the VRS during the hiring of a Republican for an information technology position at SBE. Despite the claims of Mr. Dearing, the Secretary will not discontinue her practice of supporting the hiring of qualified Republicans. Hiring qualified Republicans is consistent with the requirement under KRS 117.025 that SBE “employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board.”

The questions below also reflect a misunderstanding of the position regarding interviews of SBE employees by a lawyer for the Personnel Board. Because the SBE is represented by counsel, the SBE's lawyer is entitled under Kentucky law to be present when employees of the SBE are questioned regarding their duties as employees by a lawyer for the Personnel Board.